

account, the expected pattern of usage and other relevant factors).

23. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.

24. The financial institution or creditor is notified that the customer is not receiving paper account statements.

25. The financial institution or creditor is notified of unauthorized charges or transactions in connection with a customer's covered account.

Notice From Customers, Victims of Identity Theft, Law Enforcement Authorities, or Other Persons Regarding Possible Identity Theft in Connection With Covered Accounts Held by the Financial Institution or Creditor

26. The financial institution or creditor is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

[78 FR 23661, Apr. 19, 2013]

## PART 165—WHISTLEBLOWER RULES

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### APPENDIX A TO PART 165—GUIDANCE WITH RESPECT TO THE PROTECTION OF WHISTLEBLOWERS AGAINST RETALIATION

AUTHORITY: 7 U.S.C. 2, 5, 12a(5) and 26, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (July 16, 2010).

SOURCE: 76 FR 53200, Aug. 25, 2011, unless otherwise noted.

#### § 165.1 General.

Section 23 of the Commodity Exchange Act, entitled “Commodity Whistleblower Incentives and Protection,” requires the Commission to pay awards, subject to certain limitations and conditions, to whistleblowers who voluntarily provide the Commission with original information about violations of the Commodity Exchange Act. This part 165 describes the whistleblower program that the Commission intends to establish to implement the provisions of Section 23, and explains the procedures the whistleblowers will need to follow in order to be eligible for an award. Whistleblowers should read these procedures carefully, because the failure to take certain required steps within the time frames described in this part may result in disqualification from receiving an award. Unless expressly provided for in this part, no person is authorized to make any offer or promise, or otherwise to bind the Commission with respect to the payment of any award or the amount thereof.

#### § 165.2 Definitions.

As used in this part:

(a) *Action*. The term “action” generally means a single captioned judicial or administrative proceeding. Notwithstanding the foregoing:

(1) For purposes of making an award under § 165.7, the Commission will treat as a Commission action two or more administrative or judicial proceedings brought by the Commission if these proceedings arise out of the same nucleus of operative facts; or

(2) For purposes of determining the payment on an award under § 165.14, the Commission will deem as part of the Commission action upon which the award was based any subsequent Commission proceeding that, individually,